

LABOUR DEPARTMENT

The 27th April, 1983

No. 9(1) 82-6Lab/3232.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 Act No. XIV of 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Ballarpur Industries Limited Unit Shree Gopal, Yamuna Nagar.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 160/1980

(365-Fbd. of 1981)

between

SHRI JAGDEV SINGH, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S
BALLARPUR INDUSTRIES LIMITED, UNIT SHREE GOPAL YAMUNA
NAGAR.

Shri Surinder Kumar, for the workman.

Shri W. C. Sharma, for the respondent.

AWARD

These reference Nos. 160, of 1980 (365-Fbd. of 1981) has been referred to the Labour Court, Rohtak by the Hon'ble Governor of Haryana,—vide his order No. ID/YMN/104/80/35112, dated 1st July, 1980 under section 10 (i) (c) of the Industrial Disputes Act, 1947, existing between Shri Jagdev Singh workman and the respondent management of M/s. Ballarpur Industries, Limited Unit Shree Gopal, Yamuna Nagar. The terms of the reference was:—

Whether the termination of services of Shri Jagdev Singh was justified and in order? If not, to what relief is he entitled ?

Notices were issued to the parties, on receiving this reference order by the Labour Court Rohtak. The parties appeared and filed their pleadings. The case of the workman according to demand notice is that he was working with the respondent for the last 7 years and he was terminated on 17th January 1980 and given no opportunity in the enquiry so he was illegally terminated and entitled for the reinstatement, continuity of service and back wages.

The case of the respondent according to written statement is that the claimant was dismissed from service for mis-conduct after observing legal formalities. There was a subsisting settlement dated 8th July, 1978 under section 12 (3) of the Industrial Disputes Act, between the parties in which there is procedure given for the individual dispute in Para No. II clause V. According to settlement the workman should have referred the case to the arbitration which he has not followed and the reference is bad in law in view of the settlement. The work and conduct of the workman was not satisfactory through out his service. He was dismissed from service for serious mis-conduct after observing legal formalities. He was chargesheeted and after reply of the chargesheet a domestic enquiry was ordered in which the workman participated and full opportunity was given to him to cross examine the witnesses and give his defence witnesses. After considering, the findings of the enquiry officer the workman was dismissed from service. So the reference may be answered in their favour.

On the pleadings of the parties, following issues were framed :—

1. Whether the fais and proper enquiry was Conducted by the respondent ? If so, to what effect?
2. Whether the workman followed the procedure settled between the union and the workman? If so, to what effect?
3. Whether termination of service of the workman is proper, justified and in order? If not, to what relief is he entitled?

The case came to me after transfer from the Labour Court, Rohtak,—vide Secretary to Government Haryana order No. 1(79)80-I-Lab, dated 20th October, 1981 on 11th January, 1982. After that issues were framed on 11th February, 1982 and issue No. 1 and 2 was ordered to be treated as preliminary issue as prayed by the parties and recorded the evidence of the parties. After hearing the arguments my findings on the issue is as under:—

Issue Nos. 1 and 2

The representative of the respondent argued on this issue that as stated by Shri Vinod Kumar Bansal as MW-1, the claimant was dismissed from service after a proper enquiry. Ex. M-1 charge-sheet was given to him. The claimant gave no reply to the chargesheet within the prescribed period. Then he was called to participate in the enquiry. The workman participated in the enquiry and signed the proceedings which are Ex. M-2. The claimant was allowed to select his representative

to assist him in the enquiry proceedings and he called Mr. Chander Bhan Singh as his representative in the enquiry. The representative and the workman participated in the enquiry and signed the proceedings which is clear from the proceedings Ex. M-2. The workman cross examined the respondent witnesses and he also lead his own defence witnesses. After the enquiry the findings as were submitted to the respondent and the management considered the enquiry and findings and passed the order of dismissal Ex. M-4. So the workman was given full opportunity in the enquiry. He further argued that the workman has stated nothing about the enquiry or the enquiry officer in his demand notice and claim statement and his own statement in the Court. There is no specific allegation regarding the fairness of the enquiry on behalf of the workman at any stage. The workman has come as his own witness before this Court. He has stated nothing about the enquiry which shows that the was proper and fair. The statement of the claimant cannot be believed as he has stated in his statement that no domestic enquiry was held. In the cross examination he has admitted his signature on the enquiry proceedings which shows that the enquiry was held and the workman came and participated in the enquiry and signed the enquiry proceedings in token of his fairness.

The representative of the workman argued on this issue that the workman was given no opportunity in the enquiry. The enquiry was a show for eye washing the workman. The enquiry officer Shri V. K. Bansal was personal officer of the factory who gave his findings according to his employers wishes and not according to the facts of the case. So the enquiry was not proper and fair.

After hearing the arguments of both the parties, and going through the file, I am of the view that the workman has stated nothing about the enquiry. There is no specific allegation on the enquiry officer or the enquiry proceedings even in the workman statement. The workman has admitted his signature on the enquiry proceedings. It shows that the enquiry was held and proper opportunity was given to the workman. So the domestic enquiry was proper and fair and issue is decided in favour of the respondent and against the workman.

Issue No. II

The representative of the respondent argued on this issue that there was a settlement between the respondent and the union which is Ex. M-5, dated 8th July, 1978 under section 12 (3) of the Industrial Disputes Act, 1947. In para No. II clause No. IV the provision for the industrial dispute is given as under:—

"That in case of an individual dispute concerning as an individual workman, arising during the currency of this settlement party No. 1 and party No. 2 shall have direct negotiation to settle the same. and if the parties do not come to any mutual settlement such individual dispute shall be settled in the following manner :—

That both the parties will refer such individual dispute to the arbitration of two nominees of the Managing Director of Ballarpur Industries Limited and two nominees of the part No. 2 (one each of Shri Gopal Paper Mills, Labour Union and Shree Gopal Karamchhari Union), whose majority decision will be final and binding on parties hereto. In the even of the Arbitrators being equally divided in their opinion and there is no majority decision, they shall refer such dispute to the Managing Director of Ballarpur Industries Ltd., whose decision will be final and binding on both the parties hereto.

According to the provisions the workman should have followed the procedure given in the settlement which he has failed to do as stated by witness of the respondent MW-1. So the reference is bad in law.

The representative of the workman argued on this issue that the settlement is not proved according to law in the Court. The respondent should have proved this document by showing who were the person who authorised to sign the settlement. The settlement may be made but it was not binding on the workman. He was not a member of any union and the settlement is not binding on him as he was not a member of the union. The workman has stated in his statement that the authorised person to signed the settlement rather he has no knowledge of this settlement. The copy of the settlement was not displayed on the notice board. The management might have fabricated this settlement which has no legal force.

After hearing the arguments of both the parties and going through the file. I fully agree with the arguments put forward by the rep. of the workman. When the settlement did not bear his signature or his representative it is not binding on the individual workman who was not member of any union as he has stated in his statement. So the issue is decided in favour of the workman and against the respondent.

After deciding issue No. I in favour of the respondent there is no need to discuss this issue at length. The charges against the workman are of very grave and serious nature of beating the mistry. If such persons are allowed to work then there was no production. So the respondent has rightly terminated his services and in these circumstances, he is not entitled to any relief.

This be read in answer to this reference.

Dated the 21st March, 1983.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endst. No. 684, dated the 1st April, 1983.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court, Haryana, Faridabad.

No. 9(1) 82-6 Lab./3282.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Talbros Automotive Components Ltd., Plot No. 74, Sector-6, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 24/1983

between

SHRI RAM PARVESH SINGH, WORKMAN AND THE MANAGEMENT OF M/S TALBROS
AUTOMOTIVE COMPONENTS LTD., PLOT NO. 74, SECTOR-6,
FARIDABAD.

Present.—

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Ram Parvesh Singh and the management of M/s Talbros Automotive Component Ltd. Plot No. 74, Sector-6, Faridabad, by order No. ID/178-FD/82/57990, dated 31st December, 1982, to this Tribunal for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ram Parvesh Singh was justified and in order?
If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared. On the last date of hearing, the representative for the management made a statement that the workman had settled his dispute with the management and he had taken his full and final accounts. The representative for the workman stated that he had no instruction in this case.

In view of the above, I make my award that the matter had been mutually settled by the parties and there remained nothing for adjudication.

Dated the 25th March, 1983.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

Endorsement. No. 356, dated the 30th March, 1983.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.